

Strategy Research Project

IT IS TIME TO RESCIND DON'T ASK, DON'T TELL

BY

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USAWC STRATEGY RESEARCH PROJECT

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ABSTRACT

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Any reasonable person could argue that homosexuals have served in the U.S. military throughout our history, many with distinction. The difference throughout history is the way the government and military departments have handled the issue. In 1993, President Bill Clinton acting on a prior campaign pledge started the process to replace the existing policy on homosexual military service. The resulting controversy led to passage of a law commonly known as "Don't ask, Don't tell" (DADT). This research project will provide a historical perspective of homosexuality and military service and the process leading up to DADT. The research project will cover several of the controversial issues such as comparing and contrasting this issue with racial integration in the military in the 1940s and 1950s as well as use other nations' recent experiences as they changed their policy as it relates to homosexual service. In the end, based on current public and military opinion, military needs and the fact that there is no credible evidence that homosexual military service degrades unit morale, cohesion or effectiveness, the recommendation is Don't ask, Don't tell be rescinded and replaced with a new policy allowing homosexual military service.

IT IS TIME TO RESCIND DON'T ASK, DON'T TELL

Any reasonable person could argue that homosexuals have served in the U.S. military throughout our history, many with distinction. The difference throughout history is the way the government and military departments have handled the issue. In 1993, President Bill Clinton acting on a prior campaign pledge started the process to replace the existing policy on homosexual military service. The resulting controversy led to passage of a law commonly known as "Don't ask, Don't tell" (DADT).

This research project provides a historical perspective of homosexuality and military service and the process leading up to DADT. It follows with information on the original intent of DADT showing how the intent was not accomplished. The paper covers several of the controversial issues such as comparing and contrasting this issue with racial integration in the U.S. Military in the 1940s and 1950s, followed by an analysis of the potential impact homosexual service would have on unit cohesion. The project then moves on to show the impact on the militaries of other nations, specifically Australia, Canada, Israel and Great Britain, after they changed their policy and began to allow homosexuals to serve. It also includes information from several studies relating to homosexual military service and their findings. A study done in 1949 demonstrated racially integrating units did not compromise unit effectiveness. A 1996 study reviewed at the University of California (UC), Davis, compared the distinction between social and task cohesion and how that affected unit performance. Included is information based on a study and survey of foreign militaries to determine if homosexual service has an effect on military performance. The project closes with an analysis of the ten findings and

four recommendations issued in the report by the General/Flag Officers' Study Group and my recommendations and conclusion.

We are in the opening months of President Obama's new administration. There are many significant issues on his radar scope; the economy, two wars and a myriad of other issues important to many interest groups. One of the issues he is sure to confront is how to resolve the ongoing debate of homosexuals openly serving in the U.S. Military.¹ During the campaign for election, the President stated rescinding the "Don't ask, Don't tell" policy was something he felt strongly about. Within the first few days after the inauguration, Presidential Press Secretary Robert Gibbs stated very clearly in an interview the President would rescind the policy, although he never indicated how fast the administration would act.

Homosexual military service is a very contentious issue evincing strong feelings on all sides. The base of the Democratic Party along with gay and lesbian groups are pushing hard for the new President to act quickly to rescind the policy and allow homosexual men and women to serve openly in the military. Those on the opposite side of the argument cite reasons such as reduced troop morale, lack of unit cohesion and the fact they believe homosexual acts are immoral to support their argument. Many individuals, to include General Colin Powell, prior Chairman of the Joint Chiefs of Staff, who in 1993 supported policies banning homosexual service, believe that DADT should be reexamined to consider the possible compelling reasons for it to be dissolved.

There is no higher national interest than national survival. In President Bush's opening letter in his National Security Strategy of the United States of America, he stated, "This strategy reflects our most solemn obligation: to protect the security of the

American people.”² The U.S. maintains a large, powerful military that since the mid-seventies has been all-volunteer. Since the birth of the Republic, the government has made decisions about who shall be permitted or required to serve in the military, and under what conditions.³ Much of it was based on the military needs at a particular time.

Historically, the military did not officially exclude or discharge homosexuals, although sodomy (defined as anal or oral sex between men) was considered a criminal offense as early as Revolutionary War times.⁴ In 1942, during the ramp up to WWII, psychiatric evaluations became part of the induction process. At this time homosexuality was considered a pathology and Army regulations for the first time included verbiage that barred homosexuals from serving and clarified procedures for rejecting gay draftees.⁵ Selective enforcement of the policy has historically been the norm. When personnel shortages became a problem, the military intentionally did not apply entry requirements as strictly, but this was always temporary.

Throughout U.S. history, the policy was basically you could not serve if you were an acknowledged homosexual. This obviously doesn’t mean gays and lesbians did not serve, only they kept their sexual orientation private. Over the course of time, policies and directives were put in place stating homosexuality was incompatible with military service.

The History of Don’t Ask, Don’t Tell

In the 1970s, a movement began to form in the U.S. pushing for civil rights for gays and lesbians and the military was a target for this movement. By the end of the 1980s, reversing the military’s policy was emerging as a priority for advocates of gay and lesbian civil rights.⁶ Leading up to the 1992 Presidential Election, Governor Bill

Clinton made a campaign promise that he would end the ban on gay and lesbian service in the military. The anti-homosexual policy in place at the time of Clinton's inauguration originated in 1962 where the Department of Defense, based on Executive Order, had control of the policy in order to impose a uniform regulation on all branches of service. Pro-gay groups assumed incorrectly the control of the policy would permanently remain in the purview of the President through executive order.⁷ In 1993, in order to make good on his promise, President Clinton directed the Secretary of Defense to prepare a draft policy to end discrimination on the basis of sexual orientation. The President was not prepared for the pushback from the Joint Chiefs, Congress and the American public. A compromise was eventually reached with Congress that became the "Don't ask, Don't tell" statute which has remained in effect since that time.

The primary players in the first year of the Clinton Administration who had the most influence on the new revision were--the President, Secretary of Defense Les Aspin, Attorney General Janet Reno, the Joint Chiefs of Staff, including General Colin Powell, other senior officers in the Pentagon and Congressional leaders, primarily Senator Sam Nunn, Armed Services Committee Chairman. During that first year, they struggled with five versions of the new policy. Secretary Aspin drafted an Executive Order on the new policy which Congress did not agree with. The prolonged disagreement led Congress to take over the process and adopt the first statute concerning sexual orientation in the military.⁸ It was a significant change from the previous history of authorizing the Department of Defense in coordination with the

President to govern the policy. This now placed the policy into law, meaning the only way to change it would be to repeal it or establish a new law.

The previous policy was explicitly status-based; you could be discharged from the military if you were found to be homosexual. The reforms in the 1993 DADT policy were supposed to switch the focus from status to conduct. What actually ended up happening was status was tied to conduct and conduct to status. You could not ask what a person's sexual status was, but if they displayed or talked about behaviors demonstrating a propensity to engage in homosexual acts, they could be discharged. The proponents of continuing a policy of exclusion for homosexuals had several arguments against allowing homosexuals to serve, but their primary argument was known as the "unacceptable risk" standard. They believed allowing homosexuals to serve in the military posed an unacceptable risk to morale, unit cohesion and unit effectiveness. This argument against supporting homosexual service resulted from testimony from scores of military leaders in the congressional hearings.

What most of the American Public remembers about the 1993 revision to the military anti-gay policy is wrong. First, people think that the new policy is more lenient toward gay men and lesbians in uniform, less anti-gay and less homophobic than the policy in place when President Clinton took office. Second, they think that President Clinton should get the credit for this change, and third, the American Public believes the change achieved in 1993 marked the end of discharging service members for their status and the beginning of discharging them for their conduct.⁹ Janet E. Halley, Professor of Law at Stanford University, and widely recognized for her groundbreaking work on homosexual legal theory states, "Wrong, wrong and wrong again."¹⁰ The new

policy is much worse than its predecessor. Clinton's Justice Department was the source of the most alarming innovation in the new policy—a new set of rules that allow homosexual conduct to be inferred from supposed homosexual status.”¹¹ It is a long term issue, not just to be considered because we are currently at war. In the end, it boils down to whether you believe homosexual Soldiers, Sailors, Airmen and Marines should be able to serve in the U.S. military.

The Intent of Don't Ask, Don't Tell

The original intent of DADT was three fold. First, applicants for military service would not be asked to reveal their sexual orientation. Second, inquiries or investigations solely to determine a service member's sexual orientation would not be initiated, but inquiries or investigations could be initiated when credible information indicated a basis for discharge or disciplinary action, i.e. homosexual conduct, and lastly, a statement by a service member that he or she is homosexual or bisexual created a reasonable presumption that the service member is engaging in homosexual acts or has the propensity or intent to do so.¹² In effect, those who identify themselves as gay or lesbian are barred from serving openly in the U.S. Military and are not allowed to engage in homosexual conduct while serving as a member of the military.

Comparing Racial Integration in the Military to DADT

The history of African-Americans serving in the US military goes back to the civil war; they were barred from service during the revolution. Allowing African-Americans to serve was initially due to the Union Army facing a serious shortage of troops. While they served, they were treated differently than the white troops. They were led by white officers and were most often assigned menial jobs. After the civil war most that

remained in the military were sent out west to fight Indians and during WW I, most were assigned non-combat duties such as orderlies.

Many proponents of lifting the ban point to the integration of African-Americans into the military in the 1940s as a precedent for allowing gays to serve. At the beginning of WWII, personnel needs dictated that black recruits be accepted for military service in the Army. African-Americans were recruited, still segregated from whites and placed in supporting roles. In October of 1947, the President's Committee on Civil Rights presented President Truman with a comprehensive survey on civil rights conditions in the United States, making several sweeping recommendations to improve the situation. The committee went so far as to urge the President to use the military "as an instrument of social change."¹³

Racial segregation remained official U.S. Government policy until President Truman issued an Executive Order in 1948 directing integration of the armed forces even though a Gallup poll showed that only 26% of the American People supported integration.¹⁴ The concerns at the time were whites not wanting to be housed with or have to bathe with African-American troops and stereotypical beliefs about the capabilities of black soldiers.

As the war progressed, the Navy experimented with the integration of enlisted personnel. This was driven by the lower cost of not having to maintain combat-ready segregated units¹⁵. A social scientific study of the American Soldier by Stouffer, Lumsdaine, Williams, Smith, Janis, Star and Cottrell in 1949 demonstrated that integrating units would not compromise unit effectiveness.¹⁶ Desegregation proceeded slowly and was met with resistance. It wasn't until October 1954 when the Secretary of

Defense announced that the last racially segregated unit in the armed forces of the United States had been abolished.¹⁷

Similarities to the Racial Issue

While there are many differences between integrating homosexuals and African-Americans into the military, there are also similarities. Race and sexual orientation are both a basis for minority group status in the US. There are many different definitions and criteria for minority groups. The most important feature is a minority group's members must have one or more characteristics that society uses as a basis for discrimination.¹⁸ While we consider this information we need to remain mindful that race and sexual orientation are independent categories. Heterosexuals and homosexuals belong to all races and ethnic groups. Race and sexual orientation are considered a *Master Status*¹⁹, once known, the racial or sexual orientation is considered one of the most important pieces of information about an individual and their behaviors are seen through the prism of race or sexual orientation. This potentially makes members of racial and sexual minorities targets of prejudice.

Societal norms supported social prejudice and there were significant anti-black attitudes when Truman ordered the end of racial segregation. Overall, attitudes have changed since then, but there is still widespread racial prejudice in the US, just as there is prejudice against homosexuals. This prejudice leads to discrimination and differential treatment by the majority. The debates about a new policy concerning sexual orientation often include the same rhetoric as racial segregation in the 1940s. The predictions of weakening the U.S. Military and its effects on national security are the same.

Differences in Comparing DADT to Racial Integration

Although there are similarities, we need to recognize differences also exist. There are three differences that need to be considered if a new sexual orientation policy is implemented.²⁰ First, in most social situations race is readily visible while sexual orientation can be concealed. In routine social situations, the heterosexual is unaware of the individual's sexual orientation affording them the opportunity to make an impression outside the filter of sexual orientation. Second, in the U.S., race is more strongly linked to socioeconomic status than sexual orientation. Heterosexuals and homosexuals are distributed throughout society. It is possible this difference might provide an advantage for implementing a new sexual orientation policy in that heterosexuals and homosexuals may share commonalities outside sexual orientation. Third, openly gay personnel are unlikely to ever constitute a substantial proportion of the military. It is estimated that 3% to 6% of males are homosexual in the general population with numbers slightly smaller for females.²¹ Even if the policy changes the probability of having an openly gay member of a unit is very small. This is significantly different than the military's intensive integration efforts began in the 1960s through today's efforts at diversity.

Potential Impacts to Unit Cohesion

In order to perform the mission to protect and defend the nation, one of the primary objectives of the armed forces is to recruit, train and maintain a capable, professional military force. With exceptions during times of war, there have been long periods where women or other minorities could not serve or were limited to only certain jobs or areas. On its face, this seems like contradictory logic. Based on the

“unacceptable risk” standard of reduced unit cohesion and effectiveness that would be caused by allowing homosexual military service, one would think times of war would be the worst time to loosen or selectively not enforce stated entry requirements. The current debate is centered not on gender or race but sexual preference. Much unsubstantiated anecdotal information circulates in public from religious and military leaders, members of the government and from the general public and is driven from the belief that allowing homosexuals to serve openly would adversely affect unit cohesion and that in turn would affect accomplishing the mission.

A study done at UC, Davis, makes a distinction between social cohesion and task cohesion.²² Social cohesion is the nature and quality of emotional bonds of friendship, closeness, etc. and task cohesion is a shared commitment among members to accomplish a goal.²³ Robert MacCoun, Professor of Law and Public Policy, at UC Davis, concluded in 2006, after reviewing military and civilian studies of cohesion and performance it is task cohesion, not social cohesion or group pride that drives group performance. Professor MacCoun also concluded the impact of any new Pentagon policy concerning sexual orientation would be on social cohesion.²⁴ Because coworkers can perform effectively as a team without necessarily liking each other, he argued, such a reduction in social cohesion would be unlikely to reduce the military’s ability to complete its mission successfully.

Another complication with the unit cohesion rationale is it fails to acknowledge most gay and lesbian service members exercise considerable discretion in revealing their homosexuality to others and are likely to continue doing so even if DADT is eliminated.²⁵ There are more issues involved than just working together in the same

office in the military that have to be considered. Normal and potential deployed living conditions are a significant factor. Most military dormitories consist of individual rooms with a shared bathroom. Having a heterosexual share a bathroom with a homosexual would be the same as a male and female sharing accommodations. The military does not currently support this arrangement. What is more disturbing to proponents of keeping the ban is a deployed situation where personnel live in open tent or trailer billets or potentially sharing a foxhole in combat. These are all possible flashpoints that must be considered in the event of a policy change.

How Foreign Militaries Handle this Issue

In an attempt to provide more information on why a lift of the ban should be considered, I will provide analysis on how other countries deal with the issue of homosexual service. While scholars and experts disagree whether lifting the ban would undermine performance in the U.S. Military, evidence from studies on foreign militaries suggests lifting the ban on homosexual service does not threaten unit cohesion or military effectiveness.²⁶ There are currently 24 nations that allow homosexuals to serve in their armed forces. In 2000, The Center for the Study of Sexual Minorities in the Military (CSSMM) at UC, Santa Barbara, conducted a study examining four cases in detail. The four countries studied were Australia, Canada, Israel and Great Britain.

A group of 104 individuals comprising every identifiable pro-gay and anti-gay expert on the policy change in each of countries studied was interviewed. The reason to analyze these particular countries is they are western nations whose culture could be considered close to our own. Each of the countries studied reversed its gay policy for different reasons but the results were almost identical.²⁷ In Canada, the Federal Courts

forced the armed forces to lift the ban, ruling the policy violated Canada's Charter of Rights and Freedoms.²⁸ In Australia, Liberal Prime Minister Keating's government voted to lift the ban. In Israel, the ban was lifted after heated debates in the Knesset over the public outcry against the military's exclusion of gays and lesbians. In 1999, the European Court of Human Rights ruled that Britain's gay ban violated the right to privacy guaranteed in the European Convention on Human Rights.²⁹ None of the 104 experts interviewed for the study believed that the countrys' decisions to lift the ban undermined military performance, readiness or cohesion. Prior to lifting the ban, surveys of thousands of soldiers in Britain and Canada were taken to determine their thoughts on the issue. Forty-five percent of the Canadian Soldiers stated they would not serve if the ban was lifted and homosexuals were allowed to serve. Two-thirds of the British Soldiers responded that they would not willingly serve in the military if gays and lesbians were allowed to serve. When the bans were lifted, none of the dire consequences expected occurred. Senior Defense leaders from each of the four countries stated that lifting the ban, "Had very little affect," "No adverse affect on morale, cohesion or unit effectiveness."³⁰

The General/Flag Officers' Study Group

In 2008, a study group made up of retired senior officers of the U.S. Military was convened by the University of California, Santa Barbara, to research the issue of homosexual military service and to propose findings and recommendations on the Don't Ask, Don't Tell policy. The General/Flag Officers' Study Group³¹ issued a report with 10 findings and 4 recommendations.

The ten findings are summarized and analyzed below:³²

1. The law locks the military's position into stasis and does not accord any trust to the Pentagon to adapt policy to changing circumstances.

Due to the way the law is written, the defense department has little flexibility to adjust policy to meet the needs of the military. The Study Group found it was the everyday practical flexibility of military commanders, who in fact are ignoring or violating the policy, which makes the American Public think DADT is working. The "unacceptable risk" standard established in the 1993 statute was based on testimony from military leaders whose advice to Congress was based on attitudes towards homosexuality at that time. Contributors to the Study Group confirm attitudes of military personnel towards homosexuality have changed since that time and only about 20% of those serving in 1993 remain in the service today. The Study Group believes Congress should return the authority to the Department of Defense.

2. Existing military laws and regulations provide commanders with sufficient means to discipline inappropriate conduct.

The Uniformed Code of Military Justice and other Department of Defense Regulations and Instructions provide sufficient means for commanders to administer discipline for criminal infractions and inappropriate behavior.

3. "Don't ask, Don't tell" has forced some commanders to choose between breaking the law and undermining the cohesion of their units.

Commissioned and non-commissioned officers alike reported they had the dilemma of choosing between upholding the law or breaking the law when dealing with suspected homosexuals in their units. If an NCO or officer intentionally chose to ignore the fact of having a declared or suspected homosexual in their unit because they

thought it would be a bigger threat to unit effectiveness, this would be direct violation of the requirement to follow up. This naturally led to inconsistent application of the law and unpredictability for service members.

4. “Don’t ask, Don’t tell” has prevented some gay, lesbian, and bisexual service members from obtaining psychological and medical care as well as religious counseling.

The inconsistent application of law and the requirement of military members to report on suspected homosexuality leads to a confidentiality question as it relates to clergy and those in the mental or physical health treatment fields for homosexual service members. The policy creates ethical dilemmas for health professionals trying to balance their professional and military obligations. The report describes instances where leaders were reluctant to recommend and individuals were reluctant to seek necessary help due to fear of discharge. There is no presumption of confidentiality in the case of doctors and health professionals like there is with chaplains. Professor Tobias B. Wolff, Professor of Law, University of Pennsylvania, published a study on the topic of Chaplain confidentiality in 2000. He found that the Pentagon instructed soldiers to speak with clergy if they had questions about the policy, implicitly suggesting there would be confidentiality. The military initiated discharge action when the Chaplains reported statements made by gay soldiers during the counseling sessions. Col Thomas Kokditz, Chair of the Behavioral Sciences and Leadership Department at the US Military Academy states, “Insofar as DADT makes it less likely for gay, lesbian and bisexual service members to seek treatment, it exacerbates this existing problem. By inhibiting

access to religious, medical and psychological services, DADT poses a risk to the well being of some service members.”

5. “Don’t ask, Don’t tell” has caused the military to lose some talented service members.

In the four year period 2003-2006, the U.S. military enlisted over 125,000 personnel under the “moral waivers” program (Figure 1). There are six categories of moral waivers that enlistees can apply for: felonies, serious and minor non-traffic offenses, serious and minor traffic offenses and drug offenses. During this period, over 4,200 personnel enlisted with a waiver for felonies. In the same time period, over six hundred people with skills deemed “mission critical” by the Pentagon have been dismissed under DADT.³³ The career fields most affected were intelligence, combat engineers, medical and more than 322 language experts, at least 58 of which, specialized in Arabic. The Study Group believes it is counterproductive to military readiness to discharge qualified gay, lesbian and bisexual service members at the same time that we are bringing in recruits under the moral waivers program.

MORAL WAIVERS

Across the Defense Department, the number of "moral waivers" approved for military recruits with prior felony or misdemeanor crimes on their records has risen in recent years. The number of moral waivers by category since 2003:

| ARMY | | 2003 | 2004 | 2005 | 2006 |
|---|--------------------|--------|--------|--------|--------|
|  | Moral waivers | 4,918 | 4,529 | 5,505 | 8,129 |
| | Felony | 411 | 388 | 571 | 901 |
| | Serious nontraffic | 2,731 | 2,560 | 4,054 | 6,158 |
| | Minor nontraffic | 100 | 113 | 123 | 169 |
| | Serious traffic | 742 | 844 | 124 | 35 |
| | Minor traffic | 5 | 6 | 4 | 1 |
| | Drug | 929 | 646 | 630 | 865 |
| NAVY | | 2003 | 2004 | 2005 | 2006 |
|  | Moral waivers | 4,207 | 3,846 | 3,467 | 3,502 |
| | Felony | 56 | 48 | 109 | 190 |
| | Serious nontraffic | 2,844 | 2,340 | 1,872 | 2,340 |
| | Minor nontraffic | 548 | 577 | 911 | 481 |
| | Serious traffic | 116 | 131 | 119 | 66 |
| | Minor traffic | 139 | 134 | 108 | 93 |
| | Drug | 504 | 524 | 348 | 327 |
| MARINE CORPS | | 2003 | 2004 | 2005 | 2006 |
|  | Moral waivers | 19,195 | 18,669 | 20,426 | 20,750 |
| | Felony | 352 | 234 | 481 | 511 |
| | Serious nontraffic | 3,443 | 3,504 | 4,239 | 4,636 |
| | Minor nontraffic | 530 | 424 | 523 | 515 |
| | Serious traffic | 271 | 241 | 321 | 315 |
| | Minor traffic | 1,315 | 1,268 | 1,142 | 987 |
| | Drug | 13,284 | 12,998 | 13,720 | 13,786 |
| AIR FORCE | | 2003 | 2004 | 2005 | 2006 |
|  | Moral waivers | 2,632 | 2,530 | 1,123 | 2,095 |
| | Felony | 5 | 4 | 2 | 3 |
| | Serious nontraffic | 1,306 | 831 | 358 | 761 |
| | Minor nontraffic | 646 | 1,319 | 283 | 1,281 |
| | Serious traffic | 570 | 197 | 385 | 50 |
| | Minor traffic | 105 | 179 | 115 | 0 |
| | Drug | 0 | 0 | 0 | 0 |
| DEFENSE DEPARTMENT | | 2003 | 2004 | 2005 | 2006 |
|  | Moral waivers | 30,952 | 29,574 | 30,522 | 34,476 |
| | Felony | 824 | 638 | 1,163 | 1,805 |
| | Serious nontraffic | 10,324 | 9,235 | 10,523 | 13,895 |
| | Minor nontraffic | 1,824 | 2,533 | 1,840 | 2,446 |
| | Serious traffic | 1,669 | 1,413 | 929 | 466 |
| | Minor traffic | 1,564 | 1,587 | 1,369 | 1,086 |
| | Drug | 14,717 | 14,166 | 14,698 | 14,978 |

Source: Defense Department

JOHN BRETSCHNEIDER/STAFF

Figure 1. Moral Waiver Demographics

6. "Don't ask, Don't tell" has compelled some gay, lesbian, and bisexual service members to lie about their identity.

Service members serving under DADT, or any other policy banning homosexual service, have to lie about their sexuality and/or project a false identity. The Study Group

believes this puts homosexual service members in a quandary, undermining personal integrity essential to honor and trust.

7. Many gays, lesbians, and bisexuals are serving openly.

It is estimated that there are 65 thousand homosexuals currently serving on Active Duty and in the Guard and Reserves. Polls show that 23% of troops who served in Iraq and Afghanistan say they know for sure that someone in their unit is or were gay or lesbian with 59% saying they learned about it directly from the individual. Many are serving openly where more than half the unit knows.

8. “Don’t ask, don’t tell” has made it harder for some gays, lesbians, and bisexuals to perform their duties.

The Study Group found that the policy can produce an atmosphere of uncertainty and suspicion for all involved. Statements from military members indicate that they are more concerned whether a person is honest than a homosexual. Open homosexuals were trusted more than individuals that were suspected but were perceived to have lied about it.

9. Military attitudes towards gays and lesbians are changing.

One of the most significant aspects of the current thought about DADT is societal attitudes towards homosexuality have changed. In 1993, 40% of the public supported allowing homosexuals to serve openly. Current polls show the number to be somewhere between 58% and 79%. A 2006 Gallup Poll shows the percentage among 18 to 29 year olds to be 91%.

10. Evidence shows that allowing gays and lesbians to serve openly is unlikely to pose any significant risk to morale, good order, discipline, or cohesion.

The justification for DADT in 1993 was based on 15 findings resulting in the conclusion that “The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards, morale, good order and discipline and unit cohesion that are the essence of military capability.” The Study Group believes this may no longer be the case. The group was not able to find any evidence to suggest the finding of unacceptable risk remains valid and much evidence to suggest it is no longer valid.

Based on these findings, the study group had four recommendations:³⁴

1. Congress should repeal 10 USC § 654 and return authority for personnel policy under this law to the Department of Defense.

Because of the civilian-military relationship that has developed over time and congressional control over the military, this is highly unlikely. Assuming this will not occur, Congress should repeal DADT and establish new legislation allowing homosexual military service. Based on the premise of civilian control of the military, the services and commanders would have to execute and enforce whatever new law is passed.

2. The Department of Defense should eliminate “Don’t tell” while maintaining current authority under the Uniform Code of Military Justice and service regulations to preclude misconduct prejudicial to good order and discipline and unit cohesion. The prerogative to

disclose sexual orientation should be considered a personal and private matter.

This would be required in any new law that provides for unrestricted homosexual military service. If instituted, commanders would need to enforce military standards equally across the board with indifference to sexual orientation.

- 3. Remove from Department of Defense directives all references to “bisexual,” “homosexual,” “homosexual conduct,” “homosexual acts,” and “propensity.” Establish in their place uniform standards that are neutral with respect to sexual orientation, such as prohibitions against any inappropriate public bodily contact for the purpose of satisfying sexual desires.**

Defense Department directives, regulations, instructions and policies would all have to be updated to eliminate language that does not support or align with the new law. Strict application of discipline against inappropriate public bodily contact would need to be enforced throughout the transition period and beyond.

- 4. Immediately establish and reinforce safeguards for the confidentiality of all conversations between service members and chaplains, doctors, and mental health professionals.**

This should be established and enforced equally and should be a given for every service member. It is not possible for personnel to get the mental and physical treatment they need without this being in place and enforced.

Implementing a Potential New Statute

Let us assume that the statute will at some point change and homosexuals are allowed to openly serve in the U.S. Military. The next challenge will be to implement the new law. The leaders of the military services will have no choice, other than resignation or retirement, to implement and enforce the new policy. The military has a history of successful organizational change and through exceptional leadership and strict adherence to standards would navigate through this change as well. The largest group that would be required to change their attitudes and behaviors would be the heterosexuals serving in the military.³⁵ It is their compliance and buy-in for the new policy that is required. According to current studies, they have already worked or currently work with gay and lesbian personnel and either may or may not know it. Their personal beliefs, age, work environment and their willingness to potentially have to change will have the greatest impact on incorporating the new policy.

Any change to an organization as large as the U.S. Military has to be well thought out and will require the right amount of lead time to set everyone up for success. Everyone in the military will need to attend mandatory homosexual awareness training and be briefed on the new law. Key to the success is the application of a single standard of behavior that requires zero tolerance of harassment of any kind and the application of a consistent standard of discipline for those who do not comply.³⁶ Most military leaders and members are intelligent and work diligently to do the right thing and have been taught by their supervisors and commanders what is required for career success. When personnel find well publicized standards and see that non-compliance comes with strong negative consequences, they will fall in line or find a new line of work.

Recommendation

My recommendation is in line with the recommendations of the General/Flag Officers' Report. In today's climate, it is a matter of time before homosexuals will be able to serve openly in the U.S. military. The percentage of people in the country who believe homosexuals should have the right to serve, have the right to marry and have all other rights as Americans grows by the year. The President will need to get buy-in from the senior military and political leadership and will not proceed without it. It will be much more difficult if that is not in place. The President should make the change deliberately, with Congressional and senior military leader support. He should set a date six months to a year out for the new law to go into effect, allowing commanders of all services time to "prepare the battlefield." Training will need to be accomplished and very clear guidance given on disciplinary actions to be taken against those who go against the policy or use physical violence against military members. It will potentially be a difficult transition, but it is one the military has been through before. If done correctly, the transition will be yet another success story in the long history of the U.S. Armed Forces.

Conclusion

There are many policy options available to our government to deal with the homosexual military service issue. First, the government could keep the current policy and leave the decision for homosexuals to serve in the armed forces up to the individuals themselves. They would have the option as they do now of keeping their private life a secret or choose to tell whomever they want. Based on the findings of the General/Flag Officers' Study Group, statements by President Obama and public opinion this option would be difficult to maintain for the long-term. A second option would be to

go back to the historical model stating that homosexuality is not compatible with military service. This would be a difficult sell politically and would not be in the best interest of our country. A third option would be to change the current statute, "Don't ask, Don't tell," and allow gay and lesbian personnel to serve openly in the military. Although there would be risk during the transition, the military has prior success in making structural and personnel changes, and there should be no doubt it can do it again.

Many of the same people and organizations that have been against changing the policy on homosexual service would continue to be against it. Although, based on polls and statements by retired general officers and other government leaders, thoughts on this issue are changing. There would be threats from some military members and some civilians that they would not serve with homosexuals, but based on the research and experience of some of our allies that have already made the transition, this number would be relatively small. The biggest risk short-term would be the threat and acting on the threat of violence against homosexual military members. There have been some high-profile cases of service members either exposing their sexual orientation or their fellow military members finding out they are gay and they were attacked or killed. Although not discussed in this research project, each service will have different challenges based on their service culture.

The current law must be abolished and a new law enacted to allow open homosexual military service. Homosexual service would not undermine morale, unit cohesion or unit effectiveness. Even though homosexuals represent a small percentage of the American population they have significant influence due to exposure in the media via television shows, movies, etc. This does not discount the fact they

should, as Americans, be able to serve in the military if they wish. Anyone healthy with an aptitude and willingness to serve should be allowed without fear of physical abuse or any other type of harassment threatening equal treatment or equal opportunity to serve in the United States Military. Military professionals serve to protect the United States and its people, all of its people.

Endnotes

¹ In this research project the words gay and homosexual may be used interchangeably to refer to male and female homosexuals and the word lesbian will be used only for female homosexuals.

² The National Security Strategy of the United States of America, President George W. Bush, 2006.

³ Lesbians and Gay Men in the U.S. Military: Historical Background, University of California, Davis, http://psychology.ucdavis.edu/rainbow/html/military_history.html

⁴ Ibid.

⁵ Ibid.

⁶ Gay Rights, Military Wrongs, Political Perspectives on Lesbians and Gays in the Military, Edited by Craig A. Rimmerman, Garland Publishing Inc., 1996.

⁷ The U.S. Military's "Don't ask, Don't Tell" Policy, a Reference Handbook, Melissa Sheridan Embser-Herbert, Praeger Security International, Westport Connecticut and London, 2007.

⁸ Halley, 1999.

⁹ Don't, A Reader's Guide to the Military's Anti-gay Policy, Janet E. Halley, Duke University Press, 1999.

¹⁰ Ibid.

¹¹ Ibid.

¹² Attitudes of Iraq and Afghanistan War Veterans Toward Gay and Lesbian Service Members, Bonnie Moradi and Laura Miller, Armed Forces and Society.

¹³ U.S. Armed Forces Integration Chronology, Redstone Arsenal Historical Information, Internet, www.redstone.army.mil/history/integrate/welcome.

¹⁴ Race and Sexual Orientation: Commonalities, Comparisons and Contracts Relevant to Military Policy, University of California, Davis, Internet: http://psychology.ucdavis.edu/rainbow/html/military_race_comparison.html

¹⁵ Ibid.

¹⁶ Stouffer, S.A., Lumsdaine, A.A., Williams, R.M., Jr., Smith, M.B., Janis, I.L., Star, S.A., and Cottrell, L.S., Jr., *The American Soldier*, (Vol. 1-2), Princeton University Press, 1949.

¹⁷ U.S. Armed Forces Integration Chronology, Redstone Arsenal Historical Information, Internet, www.redstone.army.mil/history/integrate/welcome.

¹⁸ Race and Sexual Orientation: Commonalities, Comparisons and Contracts Relevant to Military Policy, University of California, Davis, Internet: http://psychology.ucdavis.edu/rainbow/html/military_race_comparison.html

¹⁹ Master Status is a sociological term used to denote the social position which is the primary identifying characteristic of an individual. The master status overshadows all other positions of the status set in most or all situations.

²⁰ Race and Sexual Orientation: Commonalities, Comparisons and Contracts Relevant to Military Policy, University of California, Davis, Internet: http://psychology.ucdavis.edu/rainbow/html/military_race_comparison.html

²¹ Ibid.

²² Sexual Orientation and Military Cohesion: A Critical Review of the Evidence. Robert J. MacCoun, In G. Herek, J. Jobe and R. Carney (Eds.), *Out in Force: Sexual Orientation and the Military* (PP. 157-176), University of Chicago Press, 1996.

²³ Ibid.

²⁴ Unit Cohesion and Military Members, University of California, Davis, http://psychology.ucdavis.edu/rainbow/html/military_cohesion.html

²⁵ Sexual Orientation and Military Service, *Military Life: The Psychology of Serving in Peace and Combat*, T. Britt, A. Adler, and C.A. Castro (Eds.), Greenwood Press, 2006.

²⁶ Don't Ask, Don't Tell: Is the Gay Ban Based on Military Necessity?, Aaron Belkin, *Parameters*, 2003.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Report of the General /Flag Officers' Study Group. A nonpartisan national study group comprised of retired General and Flag officers from different branches of the service to study

the effectiveness of “don’t ask, don’t tell.” The study group emphasized that any changes to existing personnel policy must not create an unacceptable risk to the armed forces’ high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability, 2008.

³² Ibid.

³³ Belkin, 2003.

³⁴ General/Flag Officers’ Study Group, 2008.

³⁵ Britt, Adler and Castro, 2006.

³⁶ Ibid.

